

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10958 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAMABEN R KADIA

Versus

SPECIAL RECOVERY OFFICER

Appearance:

None appears for the petitioner

MR MI PATEL for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 09/09/96

ORAL JUDGEMENT

This matter was argued at length by Mr B A Surti, learned Advocate on 6th September, 1996. The Court was at the verge of dictation of the order, the learned Advocate prayed for some time to seek instructions from his client. Today when the matter was called in the second round, none was present.

2. This Special Civil Application has been filed by

Ramaben R Kadia, widow of Rasiklal Kadia. The grievance of the petitioner is that the respondent Bank is recovering the dues of the petitioner's son, Vipul Kadia, from the petitioners flat situated at 3, Arpan Apartment, first floor, Prashant society, Stadium Road, Ahmedabad. It is stated that the petitioner's husband had purchased the said flat on 3.5.1983. At that time, Vipul Kadia was 25 years of age. She has further stated that her husband expired in the year 1985. Her son, Vipul Kadia was not settled in his life. She has also stated that there was one firm M/s.J J Associates, which was run from 1994. They have obtained a lease of Rs.1,50,000/- from the respondent Bank. While granting the lease to the said firm, the respondent Bank took guarantee from one Mahendra Nagarchand residing at Shivani Kesariaji. It is contended that the recovery may be effected from the guarantor.

3. I have gone through the petition. It appears that the petitioner's son is a partner in M/s.J J Associattes and has failed to make payment out of Rs.2,11,000/-. It is stated by Mr M I Patel, learned Advocate for the respondent-bank that they have attached the share of the petitioner's son to the property.

4. Considering the facts and circumstances of the case, more particularly the fact that the Bank is only attaching the share of the petitioner's son, there is no merit in this Special Civil Application and the same is rejected accordingly. Notice discharged. The interim relief is vacated.

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